

AN ACT relating to parks and tourism.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 148.874 is amended to read as follows:

- (1) There is hereby designated a linear state park, the boundaries of which shall be determined by the department in accordance with this section known as the Pine Mountain State Scenic Trail, a trail of approximately one hundred twenty (120) miles in length, located exclusively within the boundaries of Kentucky beginning along the border of Kentucky and Virginia at or near Breaks Interstate Park, and extending generally south-southwest along the crest of Pine Mountain to the vicinity of Pine Mountain State Resort Park and continuing south to the Cumberland Gap National Park on the vicinity thereof. Insofar as practicable, the boundaries of the trail from the Breaks Interstate Park to Bad Branch State Nature Preserve shall be a one thousand (1,000) foot corridor, the center of which shall be the crest of Pine Mountain, to the extent that the corridor does not encroach upon the territory of the Commonwealth of Virginia. Insofar as practicable, the boundaries of the trail from the Bad Branch State Nature Preserve to the Pine Mountain State Resort Park shall be a corridor one hundred (100) to two hundred fifty (250) feet along the level top of Pine Mountain. The route of the trail from Pine Mountain State Resort Park to Cumberland Gap National Park shall be a corridor no wider than two hundred fifty (250) feet to be determined by the department. Notwithstanding these boundary limitations, the department may through negotiations with the land owner acquire additional land outside the boundary limitations. The trail shall be depicted on the "Pine Mountain State Scenic Trail Map," which shall be on file and available for public inspection in the office of the commissioner of the department. The trail map shall delineate those portions of the trail that are owned or leased by the Commonwealth or on which the Commonwealth has obtained an easement and shall be updated periodically solely for the purpose of reflecting additions to those

specific areas.

- (2) The department may designate connecting or side paths which shall provide additional points of public access to the trail or access to points of interest, and which shall be of the same scenic nature as the trail, except that connecting or side paths shall not be acquired through eminent domain.
- (3) Because of its extended length, the department may supplement the trail by support facilities located on certain designated parts of the trail or outside the trail. These support facilities may include, as the department deems necessary and feasible, primitive shelters, fireplaces, safe water supplies, and other related public-use facilities that shall meet department standards. No open wood fires shall be permitted on the trail except in areas with support facilities specifically designated for that purpose.
- (4) The trail shall be a state scenic trail, so chosen because of its unique location. It shall be limited to foot use, ~~to~~ ~~and~~ other nonmotorized uses as permitted on segments where deemed appropriate by the department, and as set forth in KRS 148.878, and to motorized recreational vehicles such as all-terrain vehicles (ATVs), utility task vehicles (UTVs), and recreational off-highway vehicles (ROVs). The department may regulate the use of motorized recreational vehicles as to time and place and only to the extent necessary to ensure safety on the trail, except that use shall not be unduly impaired.
- (5) The department shall, no later than June 30, 2003, determine the boundaries of the trail. In determining the boundaries of the trail the department shall not encroach upon any privately owned dwelling, or areas designated for residential structures and their surrounding properties, but shall route the trail around a privately owned dwelling or areas designated for a residential structure.
- (6) The department shall not acquire through eminent domain any cemetery or its surrounding property which is designated as a cemetery or burial ground on July 15,

2002.

➔Section 2. KRS 148.878 is amended to read as follows:

- (1) Within the boundaries of the trail, as designated by the department and once acquired:
 - (a) The natural vegetation shall be kept undisturbed except for any clearing required for construction of the trail, occasional vistas, or trail-use facilities described in KRS 148.870 to 148.892, except as provided under paragraph (c) of subsection (3) of this section. Development and management of each segment of the trail shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to ensure continual maximum benefits from the land;
 - (b) Hunting of wild game shall be permitted only on or along areas as identified and permitted in administrative regulations as promulgated by the Department of Fish and Wildlife Resources after consultation with the Department of Parks, and as permitted under paragraph (c) of subsection (3) of this section; and
 - (c) The use of motorized vehicles by the general public within the boundaries of the trail shall be limited to those uses expressly provided~~[, and nothing]~~ in KRS 148.870 to 148.892 and to use~~[shall be construed as authorizing the use of motorized vehicles in this area, except]~~ upon existing or newly constructed public roadways within the boundaries of the trail~~[and as provided under paragraph (c) of subsection (3) of this section]~~.
- (2) The department may promulgate administrative regulations authorizing the use of motorized vehicles on areas other than public roadways, or as designated in subsection (4) of Section 1 of this Act, when these vehicles are required to meet emergencies where life or health is at risk, or to enable adjacent landowners to have access to their lands or mineral rights, as provided under paragraphs (a) and (c) of

subsection (3) of this section.

- (3) (a) Except as expressly authorized in KRS 148.870 to 148.892 or in the administrative regulations promulgated by the department, or as may be allowed under a change of use permit issued by the department, permissible land uses within the boundaries of the trail as designated by the department shall be as set forth in this section. Uses that lawfully existed on July 15, 2002, may continue. After the trail boundaries are designated, new or additional uses shall be in compliance with the policy and purposes of KRS 148.870 to 148.892 and shall minimize disturbance to the trail. Above-ground blasting operations authorized under the provisions of KRS 351.315 to 351.375, except those operations conducted on sites utilizing no more than a total of ten thousand (10,000) pounds of explosives or the equivalent on the site, shall be prohibited for new or additional uses within an area of one thousand two hundred fifty (1,250) feet outward from the crest of Pine Mountain on the portion of the trail from Breaks Interstate Park to Bad Branch State Nature Preserve and within an area of five hundred (500) feet outward from the boundary of the trail on the portion of the trail from Bad Branch State Nature Preserve to Pine Mountain State Resort Park. Select cutting of timber or other resources removal may be allowed pursuant to KRS 148.870 to 148.892 and administrative regulations promulgated by the department upon the issuance of a change of use permit. Unless the property is purchased by the department, any net revenue from the cutting of timber or other resources removal shall inure to the benefit of the owner of the property or property rights from which the Commonwealth acquired the property. In promulgating administrative regulations related to KRS 148.870 to 148.892 and in developing the management plan as set forth in KRS 148.882, the department shall schedule public hearings in the county in which the trail lies

that is affected by the administrative regulations and management plan.

- (b) In the development of management plans as set forth in KRS 148.882, the department shall include provisions to allow for means of ingress and egress as provided in paragraph (c) of this subsection by owners of property rights affected by the creation of the trail, and for the construction of new roads, utility facilities, and pipelines that would encroach upon the trail. The department shall promulgate administrative regulations setting forth the procedures required to establish means of ingress and egress relating to obtaining rights-of-way, easements, and permits necessary for the construction of new roads, utility facilities, and pipelines that encroach upon the trail.
- (c) When the Commonwealth acquires land for the trail authorized by KRS 148.870, regardless of whether the trail property is acquired by purchase, eminent domain, donation, or otherwise restricted, the person from whom the property is acquired or restricted or their successor in title shall have the following rights with regard to the property which has been acquired or restricted by the Commonwealth:
 - 1. Ingress, egress, and access to trail property for purposes specified in this section or any other provision of law;
 - 2. An easement to use trail property for the purpose of access to adjacent land of the same property owner or their successor, including but not limited to motorized travel;
 - 3. To hunt, fish, or trap on that portion of trail property formerly owned, in accordance with applicable law and administrative regulations;
 - 4. To gather and remove edible, medicinal, or ornamental plants and herbs from that portion of the trail property formerly owned, in accordance with applicable law and administrative regulations; and
 - 5. To access and maintain a cemetery and burial grounds on that portion of

trail property formerly owned.

- (d) The rights specified in this section or other provisions of law or administrative regulation shall be included in any judgment when property or an interest therein is taken or restricted by eminent domain and shall be included in any contract for purchase, donation, or other acquisition of the property or an interest therein unless voluntarily waived in that document.
- (4) Any person owning property or property rights within the boundaries of the trail may apply to the department for a change of use permit. The secretary or the secretary's designee shall hold a public hearing after public notice on the application within sixty (60) days. Any person shall be allowed to present evidence as to whether the use proposed by the applicant is in accordance with the management plan developed pursuant to the provisions of KRS 148.870 to 148.892, the administrative regulations promulgated pursuant to KRS 148.870 to 148.892, and other applicable law.
- (5) The secretary shall, within sixty (60) days after a hearing, issue an order and accompanying opinion granting the permit, denying the permit, or recommending an alternative use to which the land may be put that is more consistent with the provisions of KRS 148.870 to 148.892 than the use for which the application was made. Any aggrieved party to the hearing shall have the right to petition the local Circuit Court in which the property lies within thirty (30) days after issuance of the secretary's order.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

Motorized recreational vehicles such as all-terrain vehicles (ATVs), utility task vehicles (UTVs), and recreational off-highway vehicles (ROVs) shall be permitted on the Pine Mountain Trail and on the portion of any other trail of Breaks Interstate Park that falls within the boundary of the Commonwealth of Kentucky. The Breaks Interstate

Parks Commission, or the department by memorandum or agreement with the commission, may regulate the use of motorized recreational vehicles only to the extent necessary to ensure safety on the trail, except that use shall not be unduly impaired.